

REMARKS

Claims Rejection - 35 U.S.C. §103

Claims 1, 7, 30, 115, 116, 117, and 119 were rejected as being anticipated by Canadian Patent 1,236,030 to Joutsiniemi in view of U.S. Patent 6,015,258 to Taylor.

The Examiner argues that it would have been obvious to one with ordinary skill in the art to combine the Joutsiniemi device with the airfoils as disclosed in Taylor. Applicant respectfully disagrees and asserts that: (1) the teachings of Joutsiniemi teaches away from combination with Taylor; (2) the teachings of Taylor teaches away from the combination with Joutsiniemi; and (3) the resulting combination of Joutsiniemi and Taylor does not disclose, teach, or suggest Applicant's unique wind turbine apparatus

Joutsiniemi teaches the use of a plurality of elongated, generally blade-like support ribs that rigidly interconnect the outer edge of each wing with the inner edge of the other wing. [Abstract]. The purpose of the ribs are to "[increase] the stability of the rotor and, at the same time, improve the wind flow conditions within the rotor." [Abstract].

Taylor teaches the use of a plurality of stationary or fixed airfoils which are positioned around the perimeter of the rotor. [Column 3, Lines 1-3]. The airfoils are secured at their upper end to a top plate and secured at their lower end to a bottom plate for improving the structural strength and to force wind currents which enter the apparatus to push against the rotor blades. [Column 3, Lines 3-7].

As taught by Joutsiniemi, in order for the blade-like support ribs to provide stability to the rotor and possibly increase the wind flow conditions, the support ribs must be located on the inside of the wing. This is completely opposite of the disclosures and teachings of Taylor.

Likewise, as taught by Taylor, in order for the airfoils to force wind currents into the rotor, the airfoils must be located on the outside or perimeter of the rotor. This is completely opposite of the disclosures and teachings of Joutsiniemi.

If Joutsiniemi and Taylor are combined as suggested by the Examiner, the resulting combination also does not disclose, teach, or suggest Applicant's wind turbine apparatus for the following reasons. First, the Taylor airfoils located outside of the rotor are stationary or fixed. Applicant's airfoil blades, on the other hand, are completely opposite as they rotate. Second, as

the Taylor airfoils are stationary or fixed, these airfoils serve as a deflector to divert wind flow into the rotor only. Applicant's airfoil blades, on the other hand, can not be used as deflectors or to divert wind flow into the rotor. Instead, Applicant's airfoil blades are used to generate lift and power for the device independent of the rotor blades. Third, with respect to the differences between Joutsiniemi and Applicant's device, please refers to Applicant's Amendment, dated September 28, 2005, pages 29-31.

As set forth in *Ex Parte Clapp*, 227 U.S.P.Q. 972 (1985) and *In Re Geiger*, 2 U.S.P.Q.2d 1276 (CAFC 1987), in order to support a conclusion that the claimed combination is directed to obvious subject matter, the combination must be taught by the references themselves. It is well settled that the mere fact that references can be combined does not make the combination obvious under 35 U.S.C. §103, unless the prior arts contain the teaching of the combination. As the above detailed analysis makes clear, the combination of Joutsiniemi and Taylor does not disclose, teach, or suggest Applicant's wind turbine apparatus and, in fact, these references actually teach away from one another.

Applicant further asserts that the Examiner's position is provided in light of Applicant's disclosure and that the Examiner is relying upon hindsight in proposing the combination of Joutsiniemi and Taylor. However, but for the Examiner's knowledge of Applicant's device, the combination of references would not have occurred to the Examiner. Applicant's assertion is further supported by the fact that those skilled in the art have not combined the cited references to design Applicant's device. Thus, the proposed combination of references cited by the Examiner is predicated upon the Examiner's knowledge of Applicant's device and is not obvious to a person skilled in the art.

Accordingly, Applicant asserts that Claims 1 and 115, as amended, present allowable subject matter.

As Claims 7 and 30 depend from independent Claim 1 which, as amended, presents allowable subject matter and Claims 116, 117, and 119 depend from independent Claim 115 which, as amended, presents allowable subject matter, Claims 7, 30, 116, 117, and 119 likewise present allowable subject matter.

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Claims 2, 8, 11, 12, 13, 19, 22, 24, 28, 29, 31, 32, 56, 120, 121 were rejected as being unpatentable over Joutsiniemi, Taylor, and in view of Trigilio (U.S. Patent 4,551,631).

Claims 4, 5, and 36 were rejected as being unpatentable over Joutsiniemi, Taylor, and in view of Smith (U.S. Patent 1,100,332).

Claims 3 and 122 were rejected as being unpatentable over Joutsiniemi, Taylor, and in view of Yea (U.S. Patent 5,463,257).

Claims 9 and 21 were rejected as being unpatentable over Joutsiniemi, Taylor, Trigilio, and in view of Link (U.S. Patent 6,358,009).

Claims 14, 47-53 were rejected as being unpatentable over Joutsiniemi, Taylor, Trigilio, and in view of Moriaki (JP 60-090992).

Claims 27 and 33 were rejected as being unpatentable over Joutsiniemi, Taylor, Trigilio, and in view of Teasley (U.S. Patent 4,318,019).

Claim 34 was rejected as being unpatentable over Joutsiniemi, Taylor, Trigilio, and in view of Mead (U.S. Patent 4,229,661).

Claims 6, 37-39, and 41 were rejected as being unpatentable over Joutsiniemi, Taylor, and Smith and in view of Minh (U.S. Patent 5,982,046).

Claims 43, 71, 72, and 73 were rejected as being unpatentable over Joutsiniemi, Taylor, Smith, Minh and in view of Russell (U.S. Patent 6,172,429).

Claim 44 was rejected as being unpatentable over Joutsiniemi, Taylor, and in view of Rocklitz (U.S. Patent 6,451,080).

Claim 118 was rejected as being unpatentable over Joutsiniemi, Taylor, and in view of Goldwater (U.S. Patent 4,684,817).

Claims 57 and 58 were rejected as being unpatentable over Joutsiniemi, Taylor, and in view of Jamieson (U.S. Patent Application 2003/0230898).

Claims 10, 20, 42, and 68 were rejected as being unpatentable over Joutsiniemi, Taylor, Trigilio, Smith, and Minh and in view of ordinary skill in the art.

Claims 15-18, 23, 25, 35, 45, 46, 54, 55, 59-67, 69 and 70 were rejected as being unpatentable over Joutsiniemi, Taylor, Trigilio, Smith, Moriaki, and in view of ordinary skill in the art.

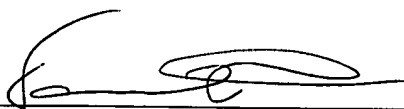
Claims 26 and 40 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response: As Claims 2-73 depend from independent Claim 1 which, as amended, presents allowable subject matter and Claims 116-122 depend from independent Claim 115 which, as amended, presents allowable subject matter, Claims 2-73 and 116-122 likewise present allowable subject matter.

Applicant submits that the application is now in condition for allowance and respectfully requests the Examiner to take such action.

If the Examiner believes that a telephone interview with Applicant's attorney would be beneficial, please do not hesitate to contact the undersigned.

Respectfully submitted,

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